

Joseph E. Clark (5252440)
Proskauer Rose LLP
Eleven Times Square
New York, NY 10036-8299

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MATTHEW ARACICH,

Plaintiff,

v.

THE BOARD OF TRUSTEES OF THE
EMPLOYEE BENEFIT FUNDS OF HEAT &
FROST INSULATORS LOCAL 12; THE
EMPLOYEE BENEFIT FUNDS OF HEAT &
FROST INSULATORS LOCAL 12; THE BOARD
OF TRUSTEES OF THE PENSION FUND OF
HEAT AND FROST INSULATORS LOCAL 12
PLAN; THE PENSION FUND OF HEAT AND
FROST INSULATORS LOCAL 12 PLAN; THE
BOARD OF TRUSTEES OF THE HEAT AND
FROST INSULATORS LOCAL 12 WELFARE
FUND; THE HEAT AND FROST INSULATORS
LOCAL 12 WELFARE FUND; AL WASSELL, in
his capacity as Fund Manager of THE EMPLOYEE
BENEFIT FUNDS OF HEAT & FROST
INSULATORS LOCAL 12; and John Does 1-10,
whose identities are currently unknown, constituting
the trustees, plan administrators or fiduciaries of the
Employee Benefit Funds of Heat & Frost Insulators
Local 12 and the Pension Fund of Heat and Frost
Insulators Local 12 and the Heat and Frost Insulators
Local 12 Welfare Fund,

Defendants.

Case No. 7:21-cv-9622-VB-JCM

**NOTICE OF MOTION
TO DISMISS**

Oral Argument Requested

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law,

Declaration of Joseph E. Clark and exhibits thereto, and all the pleadings and proceedings had

herein, Defendants The Board of Trustees of the Employee Benefit Funds of Heat & Frost Insulators Local 12; The Employee Benefit Funds of Heat & Frost Insulators Local 12; The Board of Trustees of the Pension Fund of Heat and Frost Insulators Local 12 Plan; The Pension Fund of Heat and Frost Insulators Local 12 Plan; The Board of Trustees of the Heat and Frost Insulators Local 12 Welfare Fund; The Heat and Frost Insulators Local 12 Welfare Fund; Al Wassell; and John Does 1-10, will move this Court before the Honorable Vincent L. Briccetti, at a date and time to be set by the Court, at the United States Courthouse, 300 Quarropas Street, White Plains, New York 10601, for an Order pursuant to Federal Rule of Civil Procedure 12(b)(6), dismissing the Complaint with prejudice and awarding such other and further relief as the Court may deem just and proper.

Dated: January 24, 2022
New York, New York

Respectfully submitted,

By: /s/ Joseph E. Clark

Joseph E. Clark
PROSKAUER ROSE LLP
Eleven Times Square
New York, NY 10036-8299
Tel: (212) 969-3000
Fax: (212) 969-2900
jclark@proskauer.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned certifies that, on January 24, 2022, I caused a true and correct copy of the foregoing Notice of Motion to Dismiss, the Memorandum of Law in support thereof, and supporting Declaration and exhibits to be served on all counsel of record via the Court's electronic filing system (CM/ECF).

/s/ Joseph E. Clark

Joseph E. Clark

Counsel for Defendants